

STATEMENT OF THE HONORABLE DAVID R. HINSON, FEDERAL AVIATION ADMINISTRATOR, BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON AVIATION, CONCERNING THE SHARING OF PILOT RECORDS. DECEMBER 13, 1995.

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before the Subcommittee today to discuss the topic of sharing pilot records among airlines. Accompanying me is David R. Harrington, Manager of the FAA's Air Transportation Division.

One year ago, today, there was a tragic aircraft accident at Raleigh-Durham, North Carolina, which claimed 15 lives. In the NTSB's investigation of that accident, information about the pilot's performance and qualifications, which had been maintained by the pilot's former employer, came to light. That information, which reflected on the pilot's judgment and skills, was not available to the new employer, nor was there a requirement that it be provided by the past employer or sought by the new employer. The NTSB reissued a series of recommendations to the FAA concerning the sharing of pilot information between airlines.

Let me briefly give you my general perspective on the sharing of pilot records between airlines. First, I think a focus solely on pilot records may be too limiting. I believe that there should be no marginal performers in any safety-critical position in the airline industry, whether they serve as pilots, mechanics, or dispatchers. The concern that a potential employing airline may not have pertinent information, perhaps maintained by a

prior airline, about a prospective employee is a valid one. Sharing appropriate information between airlines on the performance of pilots and other safety personnel can aid in making informed hiring decisions. Making better hiring decisions concerning operational personnel will produce a net safety benefit. That's just common sense. Having said that, though, there are a number of valid concerns that need to be aired and evaluated, before rushing to judgment and action on this apparently simple issue.

One cause for concern is that there are privacy issues that have been raised concerning the release of employee information by employers, although I understand the Subcommittee may be hearing from an expert tomorrow who does not believe that there are privacy issues. Nevertheless, I know that airlines are concerned about subjecting themselves to potential liability for releasing employee information to other parties. At the same time, employees are concerned about not only the potentially subjective nature of material to be released, but its accuracy. There are also human factors issues involved--not the least of which is the uncertainty about and concern whether supervisors will be as forthcoming in evaluating employee performance when that information may have to be made available to others. These are all important issues that argue for a thoughtful, and perhaps even cautious, approach to dictating how and what information should be maintained and shared. I can assure you that FAA wants to do what is right. Defining what is right is going to be very difficult.

Despite some of the uncertainties, I believe there are steps that should be taken to address the need for appropriate sharing of information between interested parties. One is to provide clear legal protection for those who share data on the performance of pilots and other safety employees. We believe this Subcommittee should consider developing legislation to afford airlines appropriate protection from liability that could result from sharing employee records with other airlines. It would be necessary to develop carefully any such legislation, however, to ensure that it provides adequate employee protections. For example, we believe that, as an essential element of fairness, such legislation should afford employees (and former employees) the opportunity to review and offer corrections to materials to be provided requesting airlines. Also, the degree and extent of immunity for providing information should be carefully constructed and tailored in a way that provides sufficient protection, but which does not inadvertently insulate a carrier from reckless or fraudulent recordkeeping.

Careful consideration should also be given to the type of information that airlines would be required to exchange, perhaps using as a baseline the materials on pilot proficiency that airlines are required to maintain under FAA regulations (e.g., Sections 121.683 and 135.63 and related provisions). We don't pretend to have the answers at this time as to how legislation of this nature could best be crafted, but I can assure you of our willingness to work with you on any such effort.